

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3191

By Delegates Summers, Tully and Pushkin

[Originating in Committee on Health and Human

Resources; Reported on January 2, 2023

1 A BILL to amend and reenact §16-5B-1 of the Code of West Virginia, 1931, as amended; and to
2 amend and reenact §27-1-16 of said code; and relating to requiring licensure for certain
3 health facilities operated by the state and defining terms.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-1. Health facilities and certain other facilities operated in connection therewith to obtain license; exemptions; meaning of hospital, etc.

1 No person, partnership, association, corporation, or any state or local governmental unit or
2 any division, department, board or agency thereof shall establish, conduct, or maintain in the State
3 of West Virginia any ambulatory health care facility, ambulatory surgical facility, freestanding or
4 operated in connection with a hospital, hospital or extended care facility operated in connection
5 with a hospital, without first obtaining a license therefor in the manner hereinafter provided:
6 *Provided*, That only one license shall be required for any person, partnership, association,
7 corporation or any state or local governmental unit or any division, department, board or agency
8 thereof who operates any combination of an ambulatory health care facility, ambulatory surgical
9 facility, hospital, extended care facility operated in connection with a hospital, or more than one
10 thereof, at the same location. Ambulatory health care facilities, ambulatory surgical facilities,
11 hospitals, or extended care facilities operated in connection with a hospital operated by the federal
12 government ~~or the state government~~ shall be exempt from the provisions of this article.

13 A "hospital" or "extended care facility operated in connection with a hospital", within the
14 meaning of this article, shall mean any institution, place, building or agency in which an
15 accommodation of five or more beds is maintained, furnished or offered for the hospitalization of
16 the sick or injured: *Provided*, That nothing contained in this article shall apply to nursing homes,
17 rest homes, personal care facilities, homes for the aged, extended care facilities not operated in

18 connection with a hospital, boarding homes, homes for the infirm or chronically ill, convalescent
19 homes, hotels or other similar places that furnish to their guests only board and room, or either of
20 them: *Provided, however,* That the hospitalization, care or treatment in a household, whether for
21 compensation or not, of any person related by blood or marriage, within the degree of
22 consanguinity of second cousin to the head of the household, or his or her spouse, shall not be
23 deemed to constitute the premises a hospital or extended care facility operated in connection with
24 a hospital, within the meaning of this article. "Hospital" shall include state hospitals as defined by
25 §27-1-6 of this code.

26 An "ambulatory health care facility" shall include a facility which provides health
27 care or mental health care to noninstitutionalized persons on an outpatient basis. This definition
28 does not include the legally authorized practice of medicine by any one or more persons in the
29 private office of any health care provider.

30 "Ambulatory surgical facility" means a facility which provides surgical treatment to patients
31 not requiring hospitalization. This definition does not include the legally authorized practice of
32 surgery by any one or more persons in the private office of any health care provider.

33 Nothing in this article or the rules and regulations adopted pursuant to the provisions of this
34 article shall be construed to authorize the licensure, supervision, regulation or control in any
35 manner of (1) private offices of physicians, dentists or other practitioners of the healing arts; (2)
36 dispensaries and first aid stations located within business or industrial establishments maintained
37 solely for the use of employees: *Provided,* That such facility does not contain inpatient or resident
38 beds for patients or employees who generally remain in the facility for more than 24 hours.

39 Nothing in this article shall authorize any person, partnership, association, corporation, or
40 any state or local governmental unit or any division, department, board or agency thereof to
41 engage in any manner in the practice of medicine, as defined by law. This article shall not be
42 construed to restrict or modify any statute pertaining to the placement or adoption of children.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 1. WORDS AND PHRASES DEFINED.

§27-1-6. State hospital.

1 "State hospital" means any hospital, center or institution, or part of any hospital, center or
2 institution, established, maintained and operated by the ~~Division of Health~~ state, or by the ~~Division~~
3 ~~of Health~~ state in conjunction with a political subdivision of the state, to provide inpatient or
4 outpatient care and treatment for the mentally ill, intellectually disabled or addicted. The terms
5 "hospital" and "state hospital" exclude correctional and regional jail facilities.

NOTE: The purpose of this bill is to clarify that certain health care facilities are required to be licensed as hospitals.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.